



December 1, 2006

Robin Wadsworth  
Assessors' Office  
Town of Windsor  
P.O. Box 227  
Windsor, MA 01270

Re: Payments in Lieu of Taxes  
Our File No. 2006-408

Dear Ms. Wadsworth:

You asked whether the Dalton Fire District is required to make a payment in lieu of taxes to the Town of Windsor on property it purchased in July 2005. We understand that the district has been making payments for other property it owns in town for many years.

Real property owned by a municipality or special improvement district and held for public purposes is exempt from taxation regardless of its location. Tax Collector of North Reading v. Reading, 366 Mass. 438, 440-441 (1974); Collector of Taxes of Milton v. Boston, 278 Mass. 274, 277 (1932). However, cities, towns and districts that own real property in other municipalities for specified public purposes are required to make annual payments in lieu of taxes to the host municipality. The amount of the payment is determined by applying the annual tax rate to a "statutory valuation." The property that is subject to an annual payment requirement and the method for determining the payment depends on the acquisition date.

Payments on land acquired before 1946 (pre-46 land) are governed by G.L. c. 59, §§5D and 5E. Those provisions apply to land acquired by a city, town or district for water supply, watershed, sewage disposal or airport purposes. The original statutory valuation is the average assessed valuation of the land and certain buildings for the three years before the acquisition. That valuation is then adjusted in the year after a revaluation so that the payment remains substantially the same as before the revaluation. Since 1987, the assessors of the municipality in which the land is located have made this valuation adjustment according to a statutory formula. See St. 1987, c. 518. Before that time, the Commissioner of Revenue made it. It appears from the information in your letter that the payments the district is presently making are for pre-46 acquisitions.

Payments on land acquired on or after January 1, 1946 (post-46 land) are governed by G.L. c. 59, §5F, however. The statute applies to land acquired by a city or town in another city or town, or by a district in a city or town located outside the district, for any public purpose. Therefore, the district is only required to make a payment to Windsor if the district does not include any part of Windsor.

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If the district must make a payment under G.L. c. 59, §5F, the first year it would be due would be fiscal year 2007. The assessors should establish the initial statutory valuation for calculating the payment, which would be the average assessed valuation of the land and buildings on the three assessment dates before the acquisition, *i.e.*, January 1, 2005, January 1, 2004 and January 1, 2003. That valuation should be certified in writing to the district, which may then appeal the valuation to the state Appellate Tax Board (ATB) within three months after the certification.

According to our records, Windsor is next scheduled for triennial certification in fiscal year 2009. At that time, the assessors will adjust the initial valuation to the current fair cash value of the land and the proposed valuation will be reviewed during the certification process. The new value is implemented in the year following certification after the assessors send a written notice to the district. The district has six months from the notice to appeal the new valuation to the ATB. Unless the new value is changed through an appeal, it will be used to calculate payments beginning in fiscal year 2010 and in succeeding years until a new valuation determined during your fiscal year 2012 triennial certification review is implemented in fiscal year 2013 after notice to the district.

If you have any further questions, please do not hesitate to contact me again.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kathleen Colleary', with a long, sweeping flourish extending from the end of the name.

Kathleen Colleary, Chief  
Bureau of Municipal Finance Law

KC